PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY , FEBRUARY 12 , 19 91

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE COUNCIL CHAMBERS Tuesday EVENING February 12 ,19 91 , IN Regular SESSION. PRESIDENT Samuel J. Talarico IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine , AND Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE FOLLOWING MEMBERS VIZ:

BRADBURY P , BURNS P , EDMONDS P ,
GiaQUINTA P , HENRY P , LONG P ,
REDD P , SCHMIDT P , TALARICO P ,

ABSENT:

COUNCILMEMBER: , ,
, ,

THE MINUTES OF THE LAST REGULAR January 22 ,19 91
,19 ,
SPECIAL ,19 ,

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION, APPROVED AND PUBLISHED.

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 12th day of February, 19 91, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 12th day of February, 19 91.

Sandra E. Kennedy

City Clerk

The City of Fort Wayne

5 February 1991

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of a portion of dedicated right of way.

The proposed ordinance is designated as:

BILL NO. G-91-01-38

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
5th day of February 1991.

Robert Hutner
Secretary

FACT SHEET

G-91-01-38
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE: Street Vacation Ordinance

APPROVAL DEADLINE:

REASON:

DETAILS

Specific Location and/or Address
Clay Street north of Wallace Street between Lafayette & Monroe Streets.

Reason for Project
Employee Parking

Discussion (Including relationship to other Council actions)

28 January 1991 - Public Hearing

Bill Kohrman, Superintendent of Water Pollution Control Maintenance appeared before the Commission. Mr. Kohrman stated that the Commission had a copy of the staff report and felt that the information in the staff report explained the request. (The staff states that the city owns the adjacent properties and has developed the areas to the north, west and east. Currently this portion of Clay Street is only used by City employees and has little or no potential for public use. The City is requesting the vacation in order to make the area into parking for employees.)

There was no one else to speak in favor of or in opposition to the proposed vacation.

4 February 1991 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) City of Fort Wayne City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	[X] For [ ] Against Reason Against
Board or Commission Recommendation	By [X] For [ ] Against [ ] No Action Taken [ ] For with revisions to conditions (See Details column for condition
CITY COUNCIL ACTIONS (For Council use only)	[ ] Pass [ ] Other [ ] Pass (as amended) [ ] Hold [ ] Council Sub. [ ] Do not pas

DETAILS

Of the six (6) members present, five (5) voted for the motion, one (1) did not vote.

Motion carried.

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start — Date 6 December 1991

Projected Completion or Occupancy — Date 5 February 1991

Fact Sheet Prepared by — Date 5 February 1991

Patricia Biancaniello

Reviewed by — Date 2/5/91

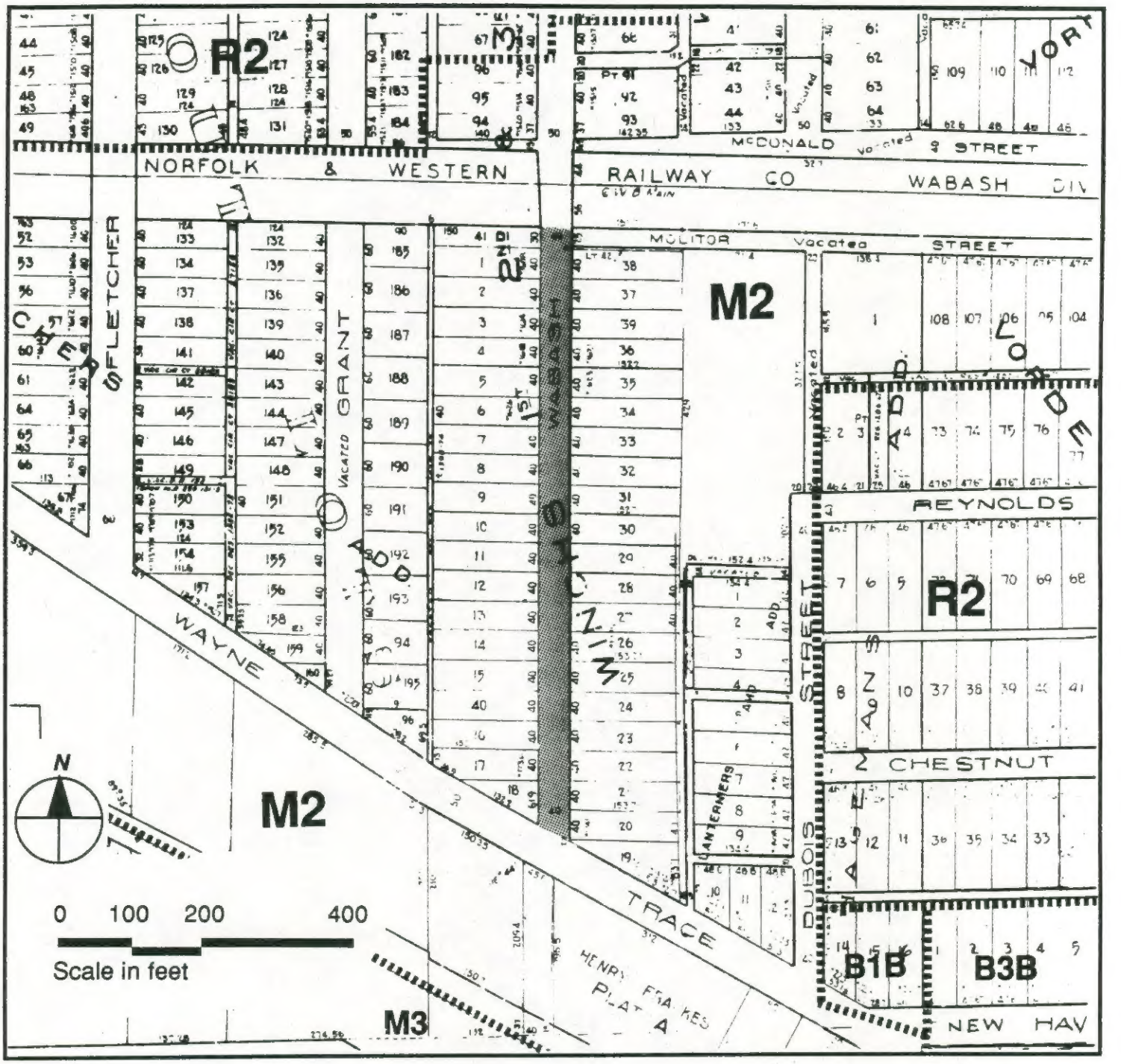
K. Maglioozi

Reference or Case Number

VACATION PETITION

AREA MAP

CASE NO. #455



COUNCILMANIC DISTRICT NO. 1

Map No.: P-2
LW 1-4-91

R1	One-Family	**B1**	Limited Business	**M1**	Light Industrial
R2	Two-Family	**B2**	Planned Shopping Center	**M2**	General Industrial
R3	Multi-Family	**B3**	General Business	**M3**	Heavy Industrial
RA/RB	Residential	**B4**	Roadside Business	**IA**	Interchange Access
PUD	Planned Unit Dev.	**POD**	Professional Office District	**MHP**	Mobile Home Park

The City of Fort Wayne requests the vacation of a portion of Clay Street.

Location:	Clay Street north of Wallace to the previously vacated right-of-way.		
Legal:	See file		
Land Area:	Approximately 7,500 Sq. Ft.		
Zoning:	This area is zoned M-1		
Surroundings:	North	M-1	City garage
	South	R-3	Residential
	East	M-1	WPC Maintenance
	West	M-1	Water Maintenance
Reason for Request:	To allow private parking		
Neighborhood Assoc.:	LaRez Neighborhood		
Neighborhood Plan:	While this petition falls within the LaRez Neighborhood, the planning staff has no comment.		
Comprehensive Plan:	No comment.		
Landscape:	No comment.		

Planning Staff Discussion:

The City of Fort Wayne owns the adjacent properties, and has developed the areas to the north, west and east. Currently this portion of Clay Street is only used by City employees and has little or no potential for public use.

Using the established evaluation criteria, this petition meets or exceeds the minimum requirements for approval. Vacation will not negatively impact any growth or development concerns, nor will it limit access to any public way or place. Further, due to the development of the city utilities complex in the immediate area, we believe that the original conditions that necessitated this right-of-way have changed. This portion of Clay Street only serves utility employees, and vacation would allow maximum use of the area.

There are public utilities located in this right-of-way, and as required by state law, vacation would be contingent upon the petitioner providing utility easements as needed.

Recommendation: Conditional Approval, contingent upon the petitioner providing utility easements or relocations as needed, and for the following reasons:

1) Approval will not hinder anyones access to public ways or places, nor impact any growth or development concerns.

2) Conditions in the area have changed, no longer necessitating the need for this portion of the public right-of-way.

RESOLUTION

WHEREAS, the CITY OF FORT WAYNE, INDIANA has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following portion of dedicated right of way situated in Fort Wayne, Allen County, to-wit:

> Clay Street from the North right-of-way of Wallace Street to the North right-of-way of vacated alley (General Ordinance I-33-1978) 164' North of right-of-way of Wallace Street bounded on the East by Lot 179 Lewis Addition and bounded on the West by Lot 178 of Lewis Addition.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated portion of right of way has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Pubilc Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated portion of right of way hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of a portion dedicated right of way hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of public alley or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, CHARLES E. LAYTON, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held February 6, 1991 and as same appears of record in the official records of the Board of Public Works.

DATED THIS 6 DAY OF February 1991

FORT WAYNE BOARD OF PUBLIC WORKS

Charles E. Layton
Director of Public Works

Michael McAlexander
Director of Public Safety

Douglas M. Lehman
Director of Administration & Finance

RESOLUTION

WHEREAS, the CITY OF FORT WAYNE, INDIANA has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following portion of dedicated right of way situated in Fort Wayne, Allen County, to-wit:

> Clay Street from the North right-of-way of Wallace Street to the North right-of-way of vacated alley (General Ordinance I-33-1978) 164' North of right-of-way of Wallace Street bounded on the East by Lot 179 Lewis Addition and bounded on the West by Lot 178 of Lewis Addition.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof; and,

WHEREAS, said public hearing was held on January 28, 1991 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated portion of right of way.

WHEREAS, said vacation of dedicated portion of right of way has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated portion of right of way hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated portion of right of way hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated portion of right of way or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated portion of right of way in Allen County, Indiana.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, Robert Hutner, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held February 4, 1991, and as the same appears of record in the official records of said Plan Commission.

DATED THIS 5th DAY OF February 1991

FORT WAYNE CITY PLAN COMMISSION

Robert Hutner, Secretary

The City of Fort Wayne

5 February 1991

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
CityCounty Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-91-01-39

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
5th day of February 1991.

Robert Hutner
Secretary

FACT SHEET

Z-91-01-39
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE: Zoning Ordinance Amendment From R-2 to B-3-B

APPROVAL DEADLINE:

REASON:

DETAILS

Specific Location and/or Address

1711, 1713 & 1717 E Washington Bl & 1712 E Wayne St

Reason for Project

Used Auto Sales & Repair

Discussion (Including relationship to other Council actions)

28 January 1991 - Public Hearing

Leonard Spallone appeared before the Commission representing the owner of the adjacent lot - Lots 1, 2, 3, 10, 11 & 12, who was the petitioner for the rezoning. Mr. Spallone stated that the lots adjacent to the proposed rezoning were presently being used for a used car lot. He stated that it was the intention of the owner to expand that use if it was possible to rezone these three lots. He stated that they also have future plans to construct a facility in which to do auto repair and body work on cars. He stated that at the present Lot #9 is vacant and there is a dwelling on Lot #5 and two single family dwellings on Lot #4. He stated that these structures would be removed if the properties were rezoned.

Mark Gensic stated that in 1989 there was a Use Variance granted by the Board of Zoning Appeals for Lot #9 contingent upon certain conditions being met. He questioned if those conditions have been met.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) James P. D'Angelo City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	☐ For ☒ Against Reason Against -approval would be contrary the Neighborhood Plan for this area
Board or Commission Recommendation	By ☐ For ☒ Against ☐ No Action Taken ☐ For with revisions to conditior (See Details column for conditio
CITY COUNCIL ACTIONS (For Council use only)	☐ Pass ☐ Other ☐ Pass (as amended) ☐ Hold ☐ Council Sub. ☐ Do not pa

DETAILS

Mr. Spallone stated that within the last three months the owner of those properties, who is also the petitioner in this case, has a new manager. He stated that they will meet the requirements of the Board of Zoning Appeals under the new management.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning.

4 February 1991 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO NOT PASS recommendation.

Of the six (6) members present, five (5) voted for the motion, one (1) did not vote.

Motion carried.

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start **Date** 27 November 1990

Projected Completion or Occupancy **Date** 5 February 1991

Fact Sheet Prepared by **Date** 5 February 1991
Patricia Biancaniello

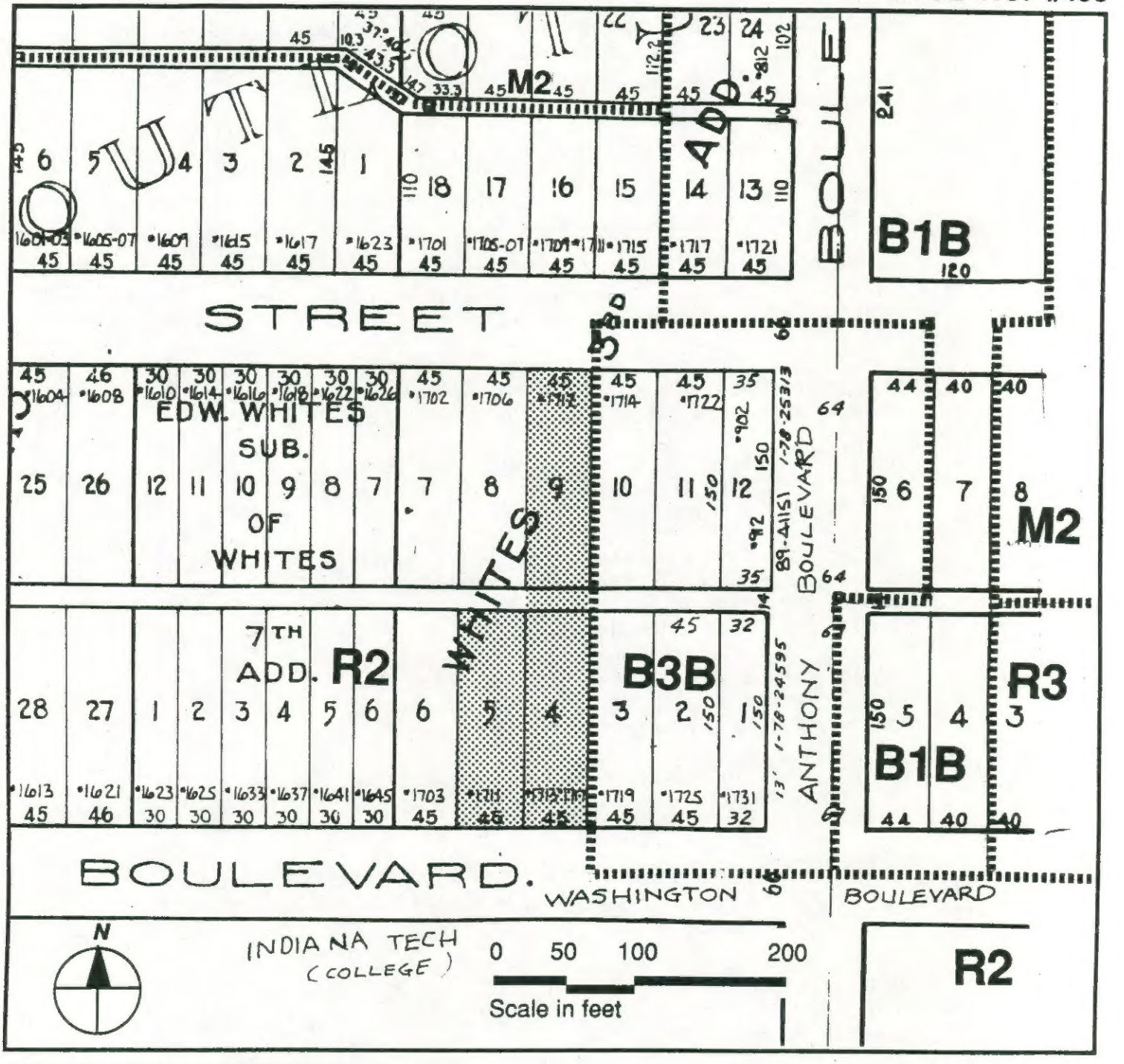
Reviewed by **Date** 2-5-91
R. Modiszi

Reference or Case Number

REZONING PETITION

AREA MAP

CASE NO. #453



COUNCILMANIC DISTRICT NO. 1

Map No.: O-6
LW 1-4-91

R1	One-Family	**B1**	Limited Business	**M1**	Light Industrial
R2	Two-Family	**B2**	Planned Shopping Center	**M2**	General Industrial
R3	Multi-Family	**B3**	General Business	**M3**	Heavy Industrial
RA/RB	Residential	**B4**	Roadside Business	**IA**	Interchange Access
PUD	Planned Unit Dev.	**POD**	Professional Office District	**MHP**	Mobile Home Park

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-91-01-39; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on January 28, 1991.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO NOT PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will be injurious to the public health, safety, morals and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will be affected in a substantially adverse manner;

(3) the need for the rezoning does not arise from conditions peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will not constitute an unusual and unnecessary hardship to this property;

(5) the grant interferes substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law; and,

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held February 4, 1991.

Certified and signed this
5th day of February 1991.

Robert Hutner
Secretary

Leonard J. Spallone, agent for James P. D'Angelo, requests a change of zone from R-2 to B-3-B.

Location: 1711-13-17 E. Washington Blvd. and 1712 E. Wayne Street

Legal: See file

Land Area: Approximately 0.40 acres.

Zoning: R-2

Surroundings:

North	R-2	Residential
South	R-2	School
East	B-3-B	Used car sales
West	R-2	Residential

Reason for Request: Petitioner stated a "business" use.

Neighborhood Assoc.: East Central

Neighborhood Plan: Expansion of commercial land use in this area would be a detriment to the existing neighborhood and its future goals.

One policy of the East Central Neighborhood Plan states that the City should: "Limit the expansion and encroachment of strip commercial and other incompatible commercial patterns of land development into residential areas (p. 52)." Implementation of the above policy is stated in the plan as follows: "The Plan Commission and City Council should deny any commercial rezoning requests other than in the areas designated by the plan and supported by the neighborhood association (p. 52)."

Comprehensive Plan: The general land use policies of the Comprehensive Plan state that rezonings and development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located in the Central Area. There are three main goals in the Central Area: (1) to maintain existing development, (2) to halt deterioration, and (3) to encourage reinvestment.

Landscape: Without provision of any type of buffer to the residential area to the west, additional business use will erode the R-2 area to the west. Expansion of B-3-B into R-2 without a mitigating buffer is not recommended.

Planning Staff Discussion:

In October of 1989 the Plan Commission looked at the possible rezoning of Lots 9 through 12 on E. Wayne Street. The staff had recommended that lot 9 should be excluded from the petition and the perfected petition should be approved as that would provide a depth alignment of the commercial zoning along the Anthony Street corridor.

In December of 1989 a Use Variance was granted by the Board of Zoning Appeals for lot 9 (159-BZA-Z). The approved variance allowed for the use of that lot as an extension of the used car display area for Premier Auto Credit Inc. The approval was contingent upon certain landscape buffering techniques being used to ameliorate the impact of commercial intrusion into the residential area. As of this date, those conditions have not been met, nor has that lot been utilized by Premier Auto.

Our concerns for the area have remained the same. There is an apparently valid need for commercial uses along this section of the Anthony Street corridor, but the areas to the west are still valid residential uses. These areas of Washington and Wayne Streets are in a relatively transitional stage, thus emphasizing the need to encourage re-investment in the existing housing stock, and to stop additional deterioration. Neighborhood Code Enforcement has indicated that they plan to demolish a sub-standard house at 1706 Wayne Street sometime this summer. They also pointed out the need to preserve the remaining housing stock. Approval of this petition would allow a number of non-residential uses which would be extremely detrimental to the overall goals of this area.

Recommendation: Do Not Pass for the following reasons:

1) Approval would be contrary to the Neighborhood Plan for this area.

2) Approval could allow a reduction in the housing stock and lead to addition deterioration in the general area.

3) Approval would compromise the intent of the Comprehensive Plan for this area, and could result in additional traffic safety issues.